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U.S. DISTRICT COURT, E.D.N.Y.
★ APR 17 2006 ★
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

- against -

GUS ACOSTA,

Defendant.

- - - - - X

WHEREAS, in the above-captioned case, the defendant was charged in a one count Information with, among other charges, mail fraud conspiracy, in violation of Title 18, United States Code, Section 1341 and 1349. The Information also provided for the forfeiture of a money judgment in the amount of FIFTY THOUSAND DOLLARS and no cents (\$50,000) ("the Forfeiture Money Judgment"), pursuant to 18 U.S.C. § 981(a)(1)(C), 21 U.S.C. § 853(p) and 28 U.S.C. § 2461(c) as property which constitutes or is derived from proceeds traceable to an offense, or a conspiracy to commit an offense constituting a specified unlawful activity, as defined in 18 U.S.C. § 1956(c)(7), to wit, 18 U.S.C. §§ 1341 and 1349, and/or as substitute assets.

WHEREAS, on or about March 31, 2006, defendant entered a plea of guilty to Count One of the above-captioned Information, charging a violation of 18 U.S.C. § 1341, to wit, mail fraud;

for

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, by and between the United States and the defendant as follows:

1. The defendant shall forfeit to the United States the Forfeiture Money Judgment, pursuant to 18 U.S.C. § 981(a)(1)(C), 21 U.S.C. § 853(p) and 28 U.S.C. § 2461©.

2. In partial satisfaction of the Forfeiture Money Judgment, the defendant agrees to pay \$25,000 within 90 days of pleading guilty. The balance of the Forfeiture Money Judgment shall be due 30 days before sentencing.

3. The defendant agrees to fully assist the government in effectuating the surrender of the Forfeiture Money Judgment and to take whatever steps are necessary to ensure full payment of the Forfeiture Money Judgment.

4. The defendant agrees to make all payments to satisfy the Forfeiture Money Judgment by certified or bank check, payable to the "United States Marshals Service," and shall cause said checks to be sent by overnight air express delivery to Assistant United States Attorney Elaine D. Banar, United States Attorney's Office, Eastern District of New York, 1 Pierrepont Plaza, Brooklyn, New York 11201, with the criminal docket number noted on the face of each check.

5. The defendant agrees not to assert any claim or assist any other person to assert any claim to any of the properties forfeited pursuant to this Preliminary Order of

Forfeiture in any administrative or judicial proceeding, waives his right to any required notice concerning the forfeiture, including notice set forth in an indictment or information, waives his right, if any, to trial by jury of forfeiture allegations, and waives any and all defenses to the forfeiture described in this Preliminary Order, including, but not limited to, defenses based on double jeopardy, *ex post facto* application of any applicable statute, any applicable statute of limitations, or the Excessive Fines Clause of the Eighth Amendment.

6. This Preliminary Order shall be final and binding as to the defendant only upon the Court's "so ordering" of the Preliminary Order.

7. Pursuant to Fed. R. Crim. P. 32.2(b)(3), this Preliminary Order of Forfeiture shall become final as to the defendant at the time of sentencing and shall be made part of the sentence and included in the judgment.

8. The United States shall have clear title to the Forfeiture Money Judgment following the Court's entry of the judgment of conviction.

9. This Preliminary Order shall be binding upon the defendant and the successors, administrators, heirs, assigns and transferees of the defendant, and shall survive the bankruptcy of any of them.

10. The Court shall retain jurisdiction over this action to enforce compliance with the terms of this Preliminary Order.

11. The Clerk of the Court is directed to send, by inter-office mail, five certified copies of this executed Order of Forfeiture to Assistant United States Attorney Elaine D. Banar, United States Attorney's Office, Eastern District of New York, 147 Pierrepont Street, Brooklyn, New York 11201.

Dated: Brooklyn, New York
March 31, 2006

s/Jack B. Weinstein

HONORABLE JACK B. WEINSTEIN
UNITED STATES DISTRICT JUDGE